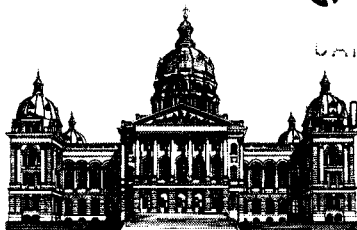


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**House of Representatives**  
State of Iowa  
*Eighty-Third General Assembly*  
STATEHOUSE  
Des Moines, Iowa 50319

IA ETHICS AND  
CAMPAIGN DISCLOSURE BOARD  
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**COMMITTEES**  
Administration and Rules  
Agriculture  
Economic Growth  
Environmental Protection  
Ethics, *Chair*  
International Relations,  
*Chair*

## MEMORANDUM

TO: W. Charles Smithson  
Director and Counsel  
Iowa Ethics and Campaign Disclosure Board

FROM: House Ethics Committee  
Representative Helen Miller, Chair  
Representative Dawn Pettengill, Ranking Member

DATE: February 9, 2009

RE: Request for Formal Advisory Opinion Regarding Lobbyist Registration and Reporting by the Legislative Liaison of a State Entity

### QUESTIONS SUBMITTED:

The House Ethics Committee has received your request for a formal advisory opinion dated December 23, 2008, made on behalf the Iowa Ethics and Campaign Disclosure Board ("Board"), regarding the following questions:

1. Whether you, as the designated representative (legislative liaison) of the Board, for the purpose of directly encouraging the passage, defeat, approval, veto, or modification of legislation, are considered a "lobbyist" under Iowa Code §68B.2(13)(a)(3).
2. Whether you are required to file a lobbyist registration statement with the Chief Clerk of the House of Representatives as required by Iowa Code §68B.36 and House Resolution 9 (Rules Governing Lobbyists), Rule 2(a).
3. Whether you are required to file a lobbyist statement of subjects of legislation and specific bills and resolutions of interest (lobbyist declaration form) as required by House Resolution 9, Rule 2(b).
4. Whether you are required to file periodic lobbyist reports as required by Iowa Code §68B.37.
5. Whether the Board is your "client" and as such, is required to file a lobbyist client report as required by Iowa Code §68B.38.

## ANALYSIS:

Iowa Code §68B.2(6), in pertinent part, defines a "client" as a state entity that pays compensation to or designates an individual to be a lobbyist. Iowa Code §68B.2(13)(a)(3), in pertinent part, defines a "lobbyist" as an individual who, by acting directly, represents the position of a state agency, in which the person serves or is employed as the designated representative, for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation by members of the General Assembly. You have indicated that you are the designated representative of the Board for such purposes.

Iowa Code §68B.2(13)(b)(4), in pertinent part, also provides that a "lobbyist" does not mean a person whose activities are limited to appearances to give testimony or provide information or assistance at sessions of committees of the General Assembly or who are giving testimony or providing information or assistance at the request of public officials or employees. Although you likely act in that capacity on behalf of the Board at times, you seem to indicate that your activities are not limited to performing such testimonial or informational functions as the statute requires for the exception to apply.

Iowa Code §68B.2(13)(b)(6) also excepts agency officials and employees from being considered lobbyists while they are engaged in activities within the agency in which they serve or are employed, or with another agency with which the official's or employee's agency is involved in a collaborative project. This exception may apply to you while you perform certain activities as executive director and legal counsel of the Board but would not except activities you perform in your role as a designated representative of the Board before the General Assembly.

Iowa Code §68B.36 requires all lobbyists to file a lobbyist registration statement with the Chief Clerk of the House of Representatives or the Secretary of the Senate. Concurrently, House Resolution 9, Rule 2(a) references the same definitions of "lobbyist" and "client" as Code §68B.36 and requires such registration using the form provided by the Chief Clerk's office. House Resolution 9 Rule 2(b) also requires each registered lobbyist to file with the Chief Clerk a statement of the general subjects of legislation in which the lobbyist is or may be interested; the file number of the bills and resolutions and the bill number of study bills, if known, which will be lobbied; whether the lobbyist intends to lobby for or against each bill, resolution, or study bill, if known; and on whose behalf the lobbyist is lobbying the bill, resolution, or study bill.

Iowa Code §68B.37(1) and (3) require a lobbyist before the General Assembly to file a report disclosing the lobbyist's clients before the General Assembly, contributions made to candidates for state office by the lobbyist during calendar months during the reporting period when the General Assembly is not in session, the recipient of the campaign contributions, and expenditures made by the lobbyist in carrying out the activities of being a lobbyist as defined in Code §68B.2(13)(a). Iowa Code §68B.38 requires a lobbyist's client to file a report with the Chief Clerk's or the Secretary of the Senate's office that contains information on all salaries, fees, retainers, and reimbursement of expenses paid or anticipated to be paid by the lobbyist's client to the lobbyist for lobbying purposes during the preceding twelve calendar months, concluding on June 30 of each year.

## CONCLUSION:

1. Based on your characterization of yourself as the designated representative of the Iowa Ethics and Campaign Disclosure Board for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation by the General Assembly, if you in fact act directly to perform such functions on behalf of the Board, it is the opinion of the House Ethics

Committee that you are a lobbyist for purposes of Iowa Code Chapter 68B and House Resolution 9 (Rules Governing Lobbyists) and that the Iowa Ethics and Campaign Disclosure Board is your client.

2. It is the further opinion of the House Ethics Committee that if you are performing the functions of a lobbyist before the General Assembly, you are required to meet all requirements for a lobbyist before the General Assembly including filing a lobbyist registration statement with the Chief Clerk's office pursuant to Iowa Code §68B.36 and House Resolution 9, Rule 2(a); filing a lobbyist declaration form pursuant to House Resolution 9, Rule 2(b); and filing periodic lobbyist reports pursuant to Iowa Code §68B.37(1) and (3). As your client, the Iowa Ethics and Campaign Disclosure Board is required to meet all requirements for a client of a lobbyist before the General Assembly including filing a lobbyist client report pursuant to Iowa Code §68B.38.